

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 9077 - SB 9014

October 29, 2021

SUMMARY OF ORIGINAL BILL: Prohibits the reduction or denial of unemployment benefits to an eligible claimant that leaves employment for refusing to receive an immunization or vaccination for COVID-19.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (010324, 010344): Amendment 010324 deletes all language after the enacting clause and rewrites the bill creating a new title and establishes various regulations regarding COVID-19 as follows:

- Prohibits a governmental entity, school, or a local education agency (LEA) from requiring a person to receive a COVID-19 vaccine or a private business or school requiring proof of vaccination as a condition of access or to receive the benefits of such entities;
- Prohibits a private business, governmental entity, school, or LEA from compelling a person to provide proof of vaccination;
- Prohibits a publicly-funded private business or governmental entity from instituting a face covering mandate as a condition of access or to receive the benefits of such entities except in severe conditions as defined in the title;
- Prohibits a publicly-funded employer from requiring an employee to wear a face covering or take adverse action against an employee who refuses to wear a face covering except in severe conditions as defined in the title;
- Establishes parameters by which a publicly-funded private business, governmental entity, or publicly-funded employer may institute and renew face covering mandates for 14-day periods as well as exemptions for an individual not to wear a face covering;
- Establishes parameters by which a school or the governing body of a school may require a person to wear a face covering on school property to include a written request by the principal or president to the governing body for the policy adoption, severe conditions exist, and the school's governing body adopts the policy on a school-by-school or campus-by-campus basis for no more than 14 days. Further requires the schools to provide N95 classification face coverings to persons 12 years of age or older. Persons objecting to wearing a face covering in schools based on documented health concerns or sincerely held religious beliefs are exempt from any requirements;
- Requires schools to provide reasonable accommodations to the extent practicable under the Americans with Disabilities Act and establishes guidelines for those accommodations;

- Prohibits the reduction or denial of unemployment benefits to an eligible claimant that leaves employment for refusing to receive an immunization or vaccination for COVID-19 and grants retroactive payment of benefits for claimants who may have been denied on such grounds;
- Grants the Commissioner of Health the sole authority to determine quarantine guidelines for persons who test positive for COVID-19 and closings of any private business or school due to COVID-19;
- Removes any authority of a local health entity or official, mayor, governmental entity, or school to quarantine a person or private business due to COVID-19;
- Prohibits a health care provider from providing a COVID-19 vaccine to a minor without written consent from the patient's parent or legal guardian with exceptions for suspected abuse or the patient is a dependent and neglected child;
- Establishes a clear and convincing standard for liability requiring a claimant to prove by clear and convincing evidence that the person proximately caused the loss, damage, injury, or death arising from a COVID-19 infection by an act or omission constituting gross negligence or willful misconduct;
- Prohibits any public funds, personnel or property of the state or any political subdivision of the state to be allocated for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that mandates administration of a countermeasure as defined by the federal Public Readiness and Emergency Preparedness (PREP) Act; and
- Entitles a person injured as a result of a violation of vaccine and face covering standards or the mature minor doctrine provisions to maintain a private right of action for injunctive relief and to recover compensatory damages and reasonable attorneys' fees against the alleged violator.

Amendment 010344 adds language prohibiting a licensing board from revoking, failing to renew, suspending, or taking an action against a health care provider based solely on the provider's recommendations for COVID-19 treatment as long as the provider exercises independent medical judgement, believes the treatment is in the best interest of the patient, and obtains written informed consent from the patient.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – The provisions of the bill could jeopardize federal funding if it results in noncompliance with federal rules and regulations by state and local government entities. The exact timing and amount of any jeopardized funding cannot reasonably be determined.

Assumptions for the bill as amended:

- The American Rescue Plan Act of 2021 (ARP) includes language requiring LEAs and the state Department of Education (DOE) to submit plans for the safe return of students to in-person instruction. Should the provisions of the bill result in an LEA or the state DOE being in conflict with a federally approved plan, federal funds could be

jeopardized. State and local governments received \$2.489 billion in ARP Elementary and Secondary School Emergency Relief (ESSER).

- Federal funds received by the Department of Health, Division of TennCare, and other state agencies for use during the COVID-19 pandemic may be jeopardized if the provisions of the bill prohibit such agencies from meeting federal rules and regulations regarding the funding.
- Any fund recovery efforts associated with legal proceedings initiated by the AG against any governing bodies of a school will not result in a significant fiscal impact.
- The proposed legislation codifies current practices of the Department of Labor and Workforce Development regarding unemployment compensation benefits and pertaining to employees leaving current employment. Therefore, this legislation will not result in a significant increase in state expenditures from the Unemployment Insurance Trust Fund.
- The provisions of the bill may lead to additional court cases within the state and local court systems. The number of court cases resulting from the provisions of the bill will not significantly increase the overall workload of the court systems; therefore, the fiscal impact to state and local government to handle these cases is considered not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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